

United States District Court  
Eastern District of Wisconsin

---

Eric D. Conner,

Plaintiff,

v.

"REPLY"

Case No. 17-CV-948

---

Stacy L. Hoem, Angela Mink,  
Scott Rubin-Asch, Prison Psychologist  
Providers; Solinda Waterman  
and Nathan Bethel, Prison  
Medical Providers,

Defendants.

---

Plaintiff's "REPLY" To Defendants'  
Proposed Findings of Facts.

---

Defendants' (PFOF) - Paragraphs: 1-32

Plaintiff's Reply Paragraphs: 1-32

---

Dated this 21<sup>st</sup> day of August, 2018.



Eric D. Conner

# 420475

Pro se - Litigant

W.S.P.F.

P.O. Box 1000

Boscobel, WI 53805

(608) 375-5656

United States District Court  
Eastern District of Wisconsin

Eric D. Conner,

Plaintiff, Case No. 17-cv-948

v.

Mag. Judge David E. Jones

Stacy L. Hoem, ET AL.,

Defendants.

— Plaintiff's "REPLY" TO Defendants'  
Proposed Findings OF Facts. —

I, Eric Conner, Pro se Plaintiff, declare  
under Penalty of Perjury Statute, 28 U.S.C.  
§ 1746, that Plaintiff's (REPLYS) to the def-  
endants' Proposed Findings OF Facts are  
true and correct and based on my personal  
knowledge and experience. Plaintiff rewrites  
the defendants Proposed Findings OF Fact  
Verbatim and replys as follows:

1) - Eric Conner (DOC#420475) has  
been housed at the Wisconsin Secure Program  
Facility (WSPF) since September 20, 2016.  
(Ray Decl. Par. 4.)

Eastern District of Wisconsin  
Response: NO dispute

2.) - Stacy Hoem is employed by the Wisconsin Department of Corrections (Department) as a Licensed Psychologist at WSPF. She has held this position since September 7, 2006. (Hoem Decl. Par. 2.)

Response: NO Dispute

3.) - Scott Rubin-Asch is employed by the Department as a Psychologist Supervisor at WSPF. He been employed in this position since March 20, 2017. Dr. Rubin-Asch was also the Psychologist Supervisor at WSPF from September 2006 until September 2011. (Rubin-Asch Decl. Par. 2.)

Response: NO Dispute.

4.) - Angela Mink is employed by the Department as a Psychological Associate at WSPF and so at times relevant to this case. (Dkt. #16 Pars. 3-4; Berg Decl. Ex. 1001, at 21-27.)

Response: NO Dispute.

5.) - Jolinda Waterman is employed by the

## Eastern District of Wisconsin

Department as the Health Services Manager (HSU Manager) at WSPF. She has held this position since January 2015 and has been employed at WSPF since 2002. (Waterman Decl. Par. 2.)

Response: NO Dispute.

6.) - Nathan Bethel is currently employed by the Department as a Nurse Clinician at Oak-Hill Correctional Institution and has held this position since July 10, 2017. Prior to his current position, he was a nurse clinician at WSPF, and began his employment there in August 2015. (Bethel Decl. Par. 2.)

Response: NO Dispute.

7.) - Conner was placed in Observation Status from February 13, 2017 to March 2, 2017, and again from March 3, 2017 to April 20, 2017. (Hoem Decl. Pars. 5, 16; Berg Decl. Ex. 1001, at 16, 52.)

Response: NO Dispute

8.) - Observation Status is a very restricted status used to protect inmates from harming

## Eastern District of Wisconsin

themselves or others. The primary purpose of Observation Status is to closely monitor the inmate to ensure his well-being and prevent suicide. (Hoem Dec. Pars. 6, 14.)

Response : NO Dispute

9.) - Inmates in Observation Status generally have very limited property and are not allowed to have prescription medications. Medications and medical treatments are provided by HSI Staff. (Hoem Dec. Pars. 8, 10.)

Response : NO Dispute as to the very limited property items inmates are allowed to have in cell; Such as, Medication Containers. However, Conner never requested nor ever argued that he wanted to possess the actual Containers in-cell while in Clinical Observation Status. Rather, Conner wanted to have access to his Prescribed Medicated Creams/Lotion during medication pass while tether to the door and or pulled out of Cell for treatment. (PPFoF at Par. 3, Ex # 7.)

10.) - Psi Staff determine what property inmates on Observation Status are allowed

## Eastern District of Wisconsin

to have, while requests for medications and medical treatments are handled and provided by Hsu Staff. (Hoen Decl. Par. 10.)

Response : No Dispute.

11.) - On February 17 and 18, 2017, while in Observation Status for trying to hang himself, Conner used his medicated creams and lotions to cover his Observation Cell Camera. (Berg Decl. Ex. 1000, at 5; Dkt. 33-1: 5.)

Response : No Dispute as to using "Minerin Cream" (Foot cream) only, not Lotion to cover his (Conners) Camera. Furthermore, disputes that it was twice. (PPFOF at Par. 2, Ex. #5.) Afterwards, Conner was still allowed to receive his Creams/Lotion during medication Passes. (PPFOF at Par. 3, Ex. #7)

12.) - The primary purpose of Observation Status is to visually monitor the inmate to ensure his well-being and prevent his suicide or other serious self-harm. (Hoen Decl. Par. 6.)

Response : No dispute, but provides that Unit Staff not only uses the Camera to visually monitor inmates

## Eastern District of Wisconsin

they also conduct 15-minute clinical observation checks and document their observation of inmates on DOC-112 & DOC-112 A. (PPFOF Exhibits # 5-10; and DOC-27 Forms - (PPFOF Ex. # 1, 2, 33, 34.)

13.) - Conner had a history of suicide attempts, including trying to jump off the ledge of an upper tier in a County Jail in 2008, and a demonstrated present intent to kill himself, as evidenced by the attempted hangings that led to the observation placements, as well as a threat to hang himself on February 28, 2017. (Berg Decl. Ex. 7001, at 2, 14, 17, 50; Ray Decl. Ex. 1002, at 7.)

Response : NO Dispute.

14.) - Allowing an inmate with Conner's history of suicide attempts to cover his camera presents a serious risk of death to the inmate. (Hoem Decl. Pars. 13-14.)

Response : Disputes. Unit Staff and Psi Staff conducts 15 minute at-cell front checks to observe an inmate's activities, and covering one's in-cell camera doesn't present a serious risk of death

## Eastern District of Wisconsin

to the inmate because staff could still visually observe the inmate at cell-front during 15-minute checks. (PPFOF Ex. # 5-10; DOC-27 Forms Ex. # 1, 2, 33, 34.)

15.) - On March 2, 2017, Conner was released from observation status. Nursing staff wrote Conner, explaining that he would be allowed to have his creams and lotions since he was being released from observation. (Berg Decl. Ex. 1001, at 16; Ex. 1000, at 8-9.)

Response : No Dispute.

16.) - On March 3, 2017, Conner was placed back on observation status after another attempted hanging. (Hoem Decl. Par. 5; Berg Decl. Ex. 1001, at 17; Ray Decl. Ex. 1002, at 1.)

Response : No Dispute.

17.) - During Conner's March 3, 2017 observation status placement, Dr. Hoem placed a handwritten restriction on Conner's cell door stating that he was

## Eastern District of Wisconsin

not allowed to have his Creams and Lotions in his Cell. (Hoem Decl. Par. 12.)

Response : NO Dispute as to Dr. Hoem placing handwritten restriction on Conner's door. Disputes that it only stated not allowed Creams/Lotion in-cell. In fact, it also stated, "Per Dr. Hoem, Inmate is not allowed to have Creams/Lotion unless it will cause death without". (SCC Par. 9)

18.) - The restriction put in place by Dr. Hoem was for Conner's Safety because of his history of misusing the lotion to cover his Camera and his present intent and desire to kill himself. (Hoem Decl. Par. 13.)

Response : Disputes. The restriction was put into place because Mr. Conner returned to Clinical Observation Status after just being released from that status by Dr. Hoem on March 2, 2017, at 4:10 p.m. (SCC Par. 6.) Furthermore, after Mr. Conner misused his Cream not lotion to affix toilet paper to his Camera so he could use the bathroom, Conner was still able

Eastern District of Wisconsin  
to receive his Creams/Lotion by alternative means during his First Clinical Observation placement. (PPFOF. Pars... 1-6; Ex.# 1, 5, 7, 6, 4, 11.) Further, Conner has no history of utilizing his Creams/Lotion for self-harm and Dr. Hoem never placed a restriction on Conner during his First Observation when he misused his Cream to cover Camera.

19.) - The Handwritten note on Conner's Cell door was used because Dr. Hoem did not want Security Staff or Unit Staff allowing Conner to possess his Creams and lotions in Observation status if he asked ~~for~~ for them. Conner refused to talk to PSU Staff throughout his Observation placements, but could later talk to Security Staff and Unit Staff, requesting more property. (Hoem Decl. Pars... 12-13; Berg Decl. Ex. 100, at 19.)

Response : Disputes. The Handwritten restriction Dr. Hoem placed on Conner's door so that Staff could deny Conner his medicated Creams/Lotion during medication passes and because

## Eastern District OF Wisconsin

Conner returned to Observation Status after she released him. (PPFOF. Par. 13.; SCC. Dkt # 16 at Par. 9.). In fact an Officer wrote in the DOC-112 that, "Per PSU, Inmate does not get Creams / Lotion". (PPFOF. Par. 14, Ex. # 8.)

20.) - By March 15, Conner's Feet were dry, cracked, and peeling. (Waterman Decl. Par. 7; Berg Decl. Ex. 1000, at 7, 14.)

Response : Disputes that his Feet were only dry, cracked and peeling. That Conner also had deep lacerations that bleed. (PPFOF. Par. 17.)

21.) - Conner's dry, cracking and peeling skin on his Feet was not considered a serious medical need, as the medication lotions and creams had been prescribed only as needed. (Waterman Decl. Par. 11.)

Response : Disputes. A Provider at WCT and WSPF - Ms. McTalle Diagnosed Conner with having dry skin, feet, etc.... and prescribed medicated creams and lotion to treat the diagnosis and to stop the pain, discomfort and risk of infection

Eastern District OF Wisconsin  
and or physical injuries. (SCC. Dkt #16. at Pars.  
... 29-31; (PPFOF. Dkt #32 at Pars. ... 18, 20.)

22.) - Making sure Conner did not kill himself was a much larger concern, so Waterman did not feel it was medically necessary or appropriate to override the restriction put in place by PSU staff. (Waterman Decl. Par. ... 9; Hoem Decl. Par. ... 8; Berg Decl. Ex. 1000, at 22.)

Response : Disputes. Waterman could have provided Conner with immediate out-of-cell treatment; thus, overriding Dr. Hoem's restriction as Conner received on March 15, 2017. (PPFOF. Dkt #32. Par. 20.) Further, Conner had no history of self-harming with his medicated creams or lotions. (PPFOF at Par. 13.)

23.) - Conner had a history of serious suicide attempts, had made recent attempts, and he refused to even talk to PSU staff while on observation, which severely limited their ability to effectively assess his mental health and the precise risk he presented to

## Eastern District OF Wisconsin

himself. (Hoem Decl. Par. 7; Rubin-Asch Decl. Pars. ... 6, 14; Berg Decl. Ex. 1001, at 20.)

Response: NO Dispute.

24.) - Initially, PSU Staff appropriately and reasonably played it safe by limiting the property Conner could possess due to his history of self-harming behaviors. (Hoem Decl. Par. 19; Berg Decl. Ex 1001, at 17.)

Response: Disputes. Conner's argument has always been that he didn't request or ever wanted to possess the actual bottles of his Creams and Lotion. Rather, have access to it by alternative means during medication passes and or out-of-cell treatment as he was receiving during his First Observation placement. (PPEDF Dkt. # 32 at Pars. ... 1-6). Furthermore, PSU Staff kept returning Conner's Smock after he would attempt SELF-harm with it. Therefore, defendants assertion that they limited Conner's property by playing it safe is incorrect and ineffectual. Conner's Safety was not of Concern. (Hoem Decl. Par. 15.)

## Eastern District OF Wisconsin

25.) - A Few weeks into the March Observation placement, on March 15, Conner Stopped Health Services Manager (HSM) Waterman to discuss his dry Feet. Waterman Observed Conner's Feet were dry, Cracked, and peeling. (Waterman Decl. Par. 7.)

Response : Disputes that it was on March 15, that Conner Spoke to Ms. Waterman and that his Feet was only dry, Cracked, and peeling. Conner has allways Claimed that he Spoke to Ms. Waterman between March 11-12, 2017; and that he also had deep lacerations at the bottom of his Feet that bleed, along with Complaining about his dry skin and Keloids. (SCC. Dkt #16 at Par. 16-19; PPFOE Dkt. #32 at Pars. 17; in which Ms. Waterman admitted to. (Defendants' Answer to Plaintiff's Amended Complaint Page 4 at Par. 16.)

26.) - Waterman did not have Supplies to provide Foot Care at the time she was made aware of the issue on March 15, 2017, and his Condition was not so urgent that immediate care was needed. (Waterman Decl.

## Eastern District of Wisconsin

Paras... 10, 11.).

Response : Disputes. Mr. Conner only spoke to Ms. Waterman once on or between March 11-12, 2017, and not on March 15, 2017. (SCC Dkt. #16 at Paras... 16-19; PPFOF Dkt. #32. Par. 17.) But only spoke with Nurse Bethel on March 15, 2017 at 8:00 am. (SCC. Dkt. #18 par... 20, 21; PPFOF Dkt. #32. at par... 19.). NO dispute as to Waterman not having the Supplies with her, but state that she, an RN as well, could have pulled Conner out-of-cell for treatment.

27.) - Waterman discussed the issue with Nurse Bethel in Hsu, who had seen Conner earlier that day, and directed nursing staff to start offering Conner foot care each day to accommodate Conner's concerns about his feet. (Waterman Decl. Paras... 10, 14; Berg Decl. Ex. 1000, at 14.).

Response : Disputes. (Berg's Decl. Ex. 1000, at 14.) Shows that at 8:00 am. Conner seen Nurse Bethel at Hsu station. Conner expressed his concerns to this RN, and stated that he will notify the

## Eastern District of Wisconsin

HSM. (Bethel Decl. Page 3 at pars. 8, 9.) Shows that Bethel was going to speak to Ms. Waterman about Conner's concerns. Nurse Bethel was the one who touched base with Ms. Waterman on March 15, 2017; in which Conner received Foot Care treatment 5 hours later. (Berg Decl. Ex. 1000, at 15-21.).

Ms. Waterman has changed her date from March 11-12, 2017, to March 15, 2017, to try and cover up her deliberate indifference to Conner's medical needs between March 11-12, 2017.

28.) - From March 15 on, Conner received Foot Care at his request. He refused offers of Foot Care on several occasions, including March 16, 17, 19, 22, 23, 24, 26 and April 3. (Waterman Decl. Par. 15; Bethel Decl. Pars. 11, 12; Berg Decl. Ex. 1000, at 14-21.)

Response: No Dispute.

However, States that Conner refused Foot Care on several occasions due to not having sandals, Crocs, shoes, socks, etc... means to protect his feet. The cream will come right off the bottom

Eastern District OF Wisconsin  
OF his Feet and onto the Cold Cement Floor, making Conner's Feet dry again immediately. Conner was never provided with any type OF Footwear and was forced to walk bare Foot on a Cold Cement Floor 24/7.

29.) - Conner abused his Special medical accomodation by acting inappropriately While Female nursing Staff were providing Foot Care. (Rubin-Asch Decl. Par. 9; Berg Decl. Ex. 1000, at 23.)

### Response : Disputes.

Inmates on Clinical Observation Status were not given underwear and/or pants. All Conner had on was a Small black Sleeveless Smock. Therefore, as the Nurse could bend down to wash and clean Conner's Feet she seen Conner's genitals by accident. (Exhibit # 1000, at 23 - dated: 3-31-17 at 1530 hrs. does not state that Conner masturbated to this Nurse while receiving Footcare treatment nor could the Defendants produce any document from the Nurses

Eastern District OF Wisconsin  
of Correctional Officers present Stating  
Conner masturbated to the Female  
Nurses while receiving Foot Care treat-  
ment as Rubin-Asch and Berg claim in  
their declarations.

30.) - Since Conner was acting inappropri-  
ate with Female nursing staff who were  
applying his creams, Waterman and PSU  
Supervisor Dr. Rubin-Asch decided to  
give Conner another chance to have his  
lotions and creams in his cell, with a  
warning that they could be taken away if  
he misused them in any way. (Rubin-  
Asch Decl. Par. 9; Berg Decl. Ex. 1001,  
at 42.)

Response: Disputes: As  
stated above in Conner's Response to  
DPFOF No. 29.) The incident where  
nursing seen Conner's genitals while  
bend down cleaning his feet was not  
intentional but an accident. Had Conner  
had underwear on she could've never  
seen Conner's genitals. This is the  
only incident where this happened and

Eastern District OF Wisconsin  
is the only (Exhibit # 1000, at 23) document the defendants produce or can to support their assertion that Conner was acting inappropriate. Their decision to allow Conner access to his Creams / Lotion was not based on this isolated incident. Furthermore, Conner has never abused his Creams / Lotion during his 2nd (3-3-17 to 4-20-17) observation placement, but still was covering his camera with toilet paper and water; not Creams / Lotion.

31.) - Conner did not complain to the defendants about Keloids on his neck or elsewhere, as opposed to dry feet, during the relevant time. (Waterman Decl. Par... 16; Bethel Decl. Par... 13.)

Response : Disputes. Conner did complain to Nurse Bethel about his Keloids on March 3, 2017, days after; SCC. Dkt. #16 at Par. 12-14.); PPFOF Dkt. # 32 at Pars... 15, 16, 19, 21, 22; Defendants Responses to PPFOF Paragraphs 15, 16, 19, 21, 22, defendants don't dispute that Conner spoke with Nurse Bethel, but that they don't know the

## Eastern District OF Wisconsin

nature of the conversations. Furthermore, Conner complained and showed Ms. Waterman on or between March 11, 2017 to March 12, 2017, his and about Keloids. (SCC Dkt. # 16 at Pars... 16, 17, 18, 19; PPFOF Dkt. # 32 at Par. 17.). Also, Conner complained to Ms. McArdle on April 7, 2017. (SCC Dkt. # 16 at Pars... 26-30; PPFOF Dkt. # 32 at Par... 26.)

32.) - On April 7, 2017, an appointment was scheduled with Nurse Practitioner McArdle at which he could discuss with her any concerns he had about any skin issues. (Berg Decl. Ex. 1000, at 23, 25.)

Response: NO Dispute. but further add that this scheduled appointment was in response to the multiple requests on Doc-3035 forms Conner was submitting to Hsu dept. requesting to see McArdle for skin lotion, etc...

In fact, the defendants doesn't dispute that Conner complained to McArdle at this April 7, 2017, hearing/appointment about his Keloids, feet, and skin and that she failed/refused to document Conner's

Eastern District of Wisconsin  
Complaints. See- Defendants' Response to  
PPFDF Dkt #32 - Response # 26.

Dated this 21<sup>st</sup> day of August, 2018



Eric D. Conner

#420475

W.S.P.F.

P.O. Box 1000

Boscobel, WI 53805

(608) 375-5656

Pro Se-Plaintiff-Respondent.